



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
BEAUFORT DIVISION

ALLEN LEE DAVIS,
Plaintiff,

vs.

DETECTIVE LT. GRAY et al.,
Defendant.

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CIVIL ACTION NO. 9:09-1296-HFF-BM

ORDER

This case was filed as a 42 U.S.C. § 1983 action. Plaintiff is proceeding pro se. The matter is before the Court for review of the Report and Recommendation (Report) of the United States Magistrate Judge suggesting that Gray and Peppers' motion for summary judgment be granted, and that this case be dismissed as to all Defendants. The Magistrate Judge advises that Plaintiff's claim relating to the disclosure of his HIV status should be dismissed with prejudice, and the claims relating to Plaintiff's arrest and conviction should be dismissed without prejudice under *Heck*. The Report was made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a de novo determination of those portions of the Report to which specific objection is made, and the Court may

accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. 28 U.S.C. § 636(b)(1).

The Magistrate Judge filed the Report on September 8, 2010, but Plaintiff failed to file any objections to the Report. In the absence of such objections, the Court is not required to give any explanation for adopting the recommendation. *Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). Moreover, a failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

After a thorough review of the Report and the record in this case pursuant to the standard set forth above, the Court adopts the Report to the extent that it does not contradict this Order and incorporates it herein. Therefore, it is the judgment of the Court that Gray and Peppers' motion for summary judgment is **GRANTED**, and this case is **DISMISSED** as to all Defendants as follows: Plaintiff's claim relating to the disclosure of his HIV status is **DISMISSED** with prejudice and the claims relating to Plaintiff's arrest and conviction are **DISMISSED** without prejudice under *Heck*.

IT IS SO ORDERED.

Signed this 28th day of September, 2010, in Spartanburg, South Carolina.

s/ Henry F. Floyd
HENRY F. FLOYD
UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

The parties are hereby notified of the right to appeal this Order within thirty days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.